In the Supreme Court of the United States

OCTOBER TERM, 1966

No. 1288

LOURDESITA SOMBERO ARROYO, PETITIONER

v.

IMMIGRATION AND NATURALIZATION SERVICE

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

BRIEF FOR THE RESPONDENT IN OPPOSITION

OPINION BELOW

The opinion of the court of appeals (Pet. App. B) is not yet reported.

JURISDICTION

The judgment of the court of appeals was entered on January 23, 1967. The petition for a writ of certiorari was filed on April 18, 1967. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether the District Director abused her discretion in denying petitioner's application for an extension of time within which to depart voluntarily from the United States.

261-119—67

STATEMENT

Petitioner, a citizen of the Philippine Islands, entered the United States in March 1964 as an exchange student. She overstayed the permissible period of her visit. After a hearing, at which she was represented by counsel, she was granted voluntary departure in lieu of deportation. On May 23, 1966, petitioner was notified that she would be required to depart from the United States by June 5, 1966 (R. 7).[1] On June 7, 1966, petitioner's lawyer requested a thirty-day extension on the ground that petitioner, a professional nurse, needed more time in which to process her application to enter Canada (R. 5). On June 13, 1966, an extension was granted allowing petitioner until July 15, 1966, to leave the United States (R. 4). On July 12, petitioner's lawyer requested another thirty-day extension (R. 3), but this request was denied (R. 2). Petitioner then sought review in the court of appeals of the denial of her application for a further stay. That court upheld the District Director.

ARGUMENT

There is no substance to the present petition. The District Director could properly determine in her discretion (8 C.F.R. 244.2) that, in view of petitioner's breach of the terms of her entry and the prior granting of the privilege of voluntary departure, her

[1] "R." refers to the certified administrative record, lodged with the Clerk of this Court.

application for a further extension of time should be denied.[2] Save for the additional fact here that petitioner had already been accorded one extension of time, the present case is in all relevant respects identical to that of *Beltran* v. *Immigration and Naturalization Service*, No. 1072, this Term, certiorari denied, April 10, 1967.

CONCLUSION

For the reasons stated, it is respectfully submitted that the petition for a writ of certiorari should be denied.

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MAY 1967.

[2] Petitioner's reliance on *Matter of F* —, 9 I. & N. Dec. 333, is misplaced. That decision construed 8 C.F.R. 244.1 which governs the granting of the privilege of voluntary departure, relief which petitioner obtained in this case.

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